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10 Attorneys for Defendant Hostess Brands, LLC  
11

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 ELIZABETH J. VANCLEAVE,  
individually and on behalf of a class of  
16 similarly situated individuals,

17 Plaintiff,

18 vs.

19 HOSTESS BRANDS, LLC; and DOES 1  
through 5,

20 Defendants.  
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23  
24  
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26  
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Case No. 3:16-cv-02779-WHO

Judge: William H. Orrick  
Ctm.: 2 – 17th Floor

**NOTICE OF SETTLEMENT AND  
WITHDRAWAL OF DEFENDANT  
HOSTESS BRANDS, LLC'S  
MOTION TO DISMISS**

1 TO ALL INTERESTED PARTIES, THEIR COUNSEL OF RECORD, AND  
2 THE COURT:

3 PLEASE TAKE NOTICE that Plaintiffs Elizabeth J. VanCleave and Matthew  
4 Perkins and Defendant Hostess Brands, LLC ("Hostess") have agreed to settle all  
5 claims and causes of action in Plaintiffs' operative First Amended Complaint.  
6 Accordingly, the parties respectfully request that all current hearings, and related  
7 deadlines, be taken off calendar. The action will be voluntarily dismissed upon  
8 execution of all settlement documents and pursuant to the parties' stipulation, all of  
9 which the parties expect will be completed within forty-five (45) days of filing this  
10 notice.

11 PLEASE TAKE FURTHER NOTICE that Hostess, in light of the parties'  
12 agreement to settle, hereby withdraws without prejudice its Motion to Dismiss the First  
13 and Third through Ninth Claims for Relief in Plaintiffs' First Amended Complaint, filed  
14 on August 17, 2016 (ECF No. 30).

15  
16 Dated: August 29, 2016

Respectfully submitted,  
PARISI & HAVENS LLP

17  
18 By: /s/ David C. Parisi  
19 David C. Parisi  
20 Attorneys for Plaintiffs  
Elizabeth J. VanCleave and  
Matthew Perkins

21  
22 Dated: August 29, 2016

Respectfully submitted,  
SHOOK HARDY & BACON L.L.P.

23  
24 By: /s/ Naoki S. Kaneko  
25 Naoki S. Kaneko  
26 Attorneys for Defendant  
Hostess Brands, LLC.

**SIGNATURE ATTESTATION**

I, Naoki S. Kaneko, am the ECF User whose ID and password are being used to file this NOTICE OF SETTLEMENT AND WITHDRAWAL OF DEFENDANT HOSTESS BRANDS, LLC'S MOTION TO DISMISS. In Compliance with Local Rule 5-1(a), I hereby attest that I have obtained Mr. Parisi's authorization to affix his electronic signature to this document.

Dated: August 29, 2016

SHOOK HARDY & BACON L.L.P.

By: /s/ Naoki S. Kaneko

Naoki S. Kaneko

Attorneys for Defendant

Hostess Brands, LLC.

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 5 Park Plaza, Suite 1600, Irvine, California 92614.

On August 30, 2016, I served on the interested parties in said action the within:

**NOTICE OF SETTLEMENT AND WITHDRAWAL OF DEFENDANT  
HOSTESS BRANDS, LLC'S MOTION TO DISMISS**

- ☐ (MAIL) I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.
- ☐ (E-MAIL) I caused such document(s) to be served via email on the interested parties at their e-mail addresses listed.
- ☐ (FAX) I caused such document(s) to be served via facsimile on the interested parties at their facsimile numbers listed above. The facsimile numbers used complied with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I caused the machine to print a report of the transmission, a copy of which is attached to the original of this declaration.
- ☐ (HAND DELIVERY) By placing a true and correct copy of the above document(s) in a sealed envelope addressed as indicated on Service List attached and causing such envelope(s) to be delivered by hand to the addressee(s) designated.
- ☐ (BY FEDERAL EXPRESS, AN OVERNIGHT DELIVERY SERVICE) By placing a true and correct copy of the above document(s) in a sealed envelope addressed as indicated above and causing such envelope(s) to be delivered to the FEDERAL EXPRESS Service Center, and to be delivered by their next business day delivery service to the addressee designated.
- ☒ (ELECTRONIC FILING) I provided the document(s) listed above electronically through the CM/ECF system pursuant to the instructions set forth in the Local Rules for the United States District Court for the **Northern District of California**.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 30, 2016, at Irvine, California

Sandee L. Moore  
(Type or print name)

  
(Signature)

**SERVICE LIST**

*Elizabeth J. VanCleave v. Hostess Brands, LLC, et al.*  
USDC-Northern District of California – Case No.: 1:16-cv-02779 WHO

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(Updated 6/21/16)